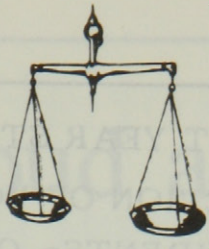


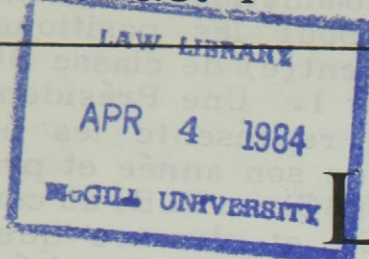
Quid Novi



VOL. IV NO. 4

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITY MCGILL

September 28, 1983
28 septembre, 1983



LSA

Referendum

LSA Referendum

At a meeting held Sept. 12, the members of LSA Council decided to include information garnered by a referendum in the students' contribution to the Dean selection process. The student body is, of course, represented on the Dean Selection Committee. The purpose of the referendum is to complement that general advocacy by supplying quantitative evidence of student positions on two specific points.

It should be noted that the Committee has already advertised outside the Faculty; it can be assumed that either option in Question #1 is viable. It is also pertinent that no Faculty member has publicly announced his or her candidacy, nor are such announcements expected. The referendum question will be put in French and English. The text of that question is as follows:

"The term of the present Dean of the Faculty of Law will end on June 1, 1984. A University Committee will be

advising the Principal of McGill University as to its choice of Dean this academic year. The results of this referendum will be forwarded to the University Dean Selection Committee.

"Question One

Please choose one of the following three alternatives:

I would prefer the next Dean of Law to be

- a) a person selected from within the Faculty
- b) a person selected from outside the Faculty
- c) I have no preference between a) and b).

"Question Two (choose one

response)

Regardless of your response to Question One, if the University Committee were to select a person from within the Faculty, which one professor would you favour:

Bradley
Baker
[....

...etc.]

The motions that these questions be put forward in a referendum were carried 11-1 for Question One, and 7-5 for Question Two. Steven Fogarty moved them, but, acting as Speaker of the meeting, did not vote.

Ian Fraser

Crosswatch

On March 15 1983 the body of Marianela Garcia, 34-year old lawyer and President of the Independent Human Rights Commission of El Salvador (CDHES) was found some fifteen miles north of San Salvador. She had been shot through the legs and chest by high-calibre explosive bullets, apparently while leading a group of villagers away from an aerial bombardment aimed against guerrillas. According to CDHES, the group was fired on by counter-insurgency troops (the Atlacatl Battalion) as they attempted to leave.

Marianela Garcia was one of Latin America's best known human rights workers, highly respected internationally for her testimonies before the UN Human Rights Commission (UNHRC) and the Parliamentary Human Rights Group of the British House of Commons. She was also Vice-President of the International Human Rights Federation in Paris, and the CDHES, which she founded, has consultative status with the UN.

Two leaders of CDHES besides Garcia have been

Cont'd on p.

Your Weekly Smile

You know your interview is not going well when the lawyer lights up his cigar with your C.V.

Christopher Broadbent

Rear View

Well, another year has begun. By now most of the upper-year students have had a chance to survey, prod and probe this year's new recruits. My first close encounter came last Thursday night at the party in Thompson House. Though only a few of the "rookies" showed up, I felt enough were present to formulate a valid impression. What can I say about people who actually seem anxious to accept the challenge of not only reading but actually briefing Dawson's *The Oracles of the Law* or Hogg's *Constitutional Law of Canada*?

Now the question to be asked is, what should we seasoned veterans do about this state of affairs? Do we tell them not to worry? I say "No", let them suffer; let them read about the organization of the legal profession in 13th century Germany. The policy of upper-year students towards our younger confreres should range from quiet disavowal to active intimidation.

As an opening gesture, let us post around the school excerpts of *Megary & Wade on Perpetuities*, to give the first-years a foretaste of what is to come! The faculty could do its part by using a class list to ask questions. Oh, the satisfaction of watching those bright, eager faces disintegrate into wretched shells with eyes permanently red from weeping and hair a distinct shade of grey. Only when total panic and dismay has been firmly established should we attempt to comfort and console our forlorn little buddies, with the advice that it really doesn't get any better, and then hand them our own personally engraved bottles of

"Grecian Formula" and "Vinsine" as tokens of solidarity. **Andrew Cohen**

FIRST YEAR STUDENTS ~ ELECTION OF YOUR CLASS PRESIDENTS~ OCTOBER 6

Call For Nominations

Nominations are hereby called for the positions of Class President BCL 1 and Class President LLB 1. A Class President represents his or her year on LSA Council, the main decision-making body of the Law Student's Association, as well as ensuring that Faculty members are aware of student concerns.

Nomination Procedures: All nominations must contain the words "We, the undersigned, nominate _____, for the position of _____, for the 1983-84 year."

All nominations must be signed by at least 10 students eligible to vote. Each student is eligible to nominate only the candidate of his or her choice who is in his or her own year and program.

Deadline for Nominations: Nominations must be submitted to the LSA Chief Returning Officer, care of SAO, by Friday September 30 at 5 p.m. In the event only that a position is acclaimed at that time, nominations for that position will remain open until Monday, October 3, at 5 p.m. at which time if there remains only one candidate for the position, that person will be acclaimed.

Campaigning Rules: The attention of candidates is drawn to the rules governing LSA elections, posted on the LSA bulletin board (#6) opposite the cafeteria entrance in the basement of Old Chancellor Day Hall.

Arthur Evrensel
Chief Returning Officer
Law Students' Association

ETUDIANTS DE 1^{ère} ANNEE~ ELECTION DE VOTRE PRESIDENT(E) DE CLASS~6 OCT 1983

Appel pour nominations

Des nominations sont sollicitées pour les positions de Président(e) de classe BCL 1 et LLB 1. Une Président de classe représente les étudiants de son année et programme (BCL ou LLB) au conseil du LSA et s'assure que les membres de la Faculté sont conscients des besoins et intérêts des étudiants.

Procedures de nomination: Toutes les nominations doivent contenir les mots, "Nous, les soussignés, nommons _____, pour la position de _____, pour l'année 1983-84." Toutes les nominations doivent être signées au moins 10 étudiants éligibles à voter. Chaque étudiant(e) est éligible pour nommer un(e) candidat(e) de son choix dans la même année et programme.

Délai pour nominations: Les nominations doivent être soumises au "Chief Returning Officer" du LSA, au soin de SAO, au plus tard, le vendredi 30 septembre à 5 heures. Dans l'hypothèse où seule un(e) candidat(e) est nommé(e), les nominations seront possibles jusqu'au lundi 3 octobre à 5 heures. Si aucune nomination additionnelle ne parvient au SAO dans ce délai, la seule personne nommée sera élue.

Règlements au sujet des élections: Les candidats doivent porter attention aux règles concernant les élections du LSA qui sont affichées sur le bulletin de nouvelles au LSA (#6), face à l'entrée de la cafétéria, au sous sol de Old Chancellor Day Hall.

Arthur Evrensel
Chief Returning Officer
Law Students' Association

The Few, The Proud and the Moigners

Say hey sportsfans! Another year of roundball is swiftly approaching, and you can bet your fadeaway jumper that the Fighting Frankalmoign will once again be in the thick of it. But first I would like to discuss the growing abuse of coke by big-time athletes. In my opinion the whole thing has been over-blown. Sure the stuff is expensive, but everybody I know takes it, including myself. Granted, if you have too much before going to bed it will keep you awake and it's bad for your teeth as well as being too sweet. But I really don't see what's wrong with a cold drink after a hard game. Coke, 7-up - what's the difference?

The departure of the FitzWeb twins from the

'Moigners will be a blow, particularly to the brewery industry which has come to depend on their pre- and post-game celebration to lift beer sales during the winter. However, reports received from Rick "Brian promised me a judgeship" Elliot and Paul "Partytime" Dunn indicate they have what it takes to fill the void. Also returning this year will be Steve "Police Brutality" Krieger. Fresh from a summer studying riot control techniques and automatic weapon etiquette with the Lindsay Metro Police, Krieger has vowed to return discipline to the team.

Also signed to a one-year contract is Dave "Motown" Wiseman. After a summer touring with the Supremes, Dave has decided to put his

entertainment career on the shelf until Skit Nite so he can return to the Currie Sports Palace for one last hurrah. Among last year's rookie players, Brian "Maternity" Ward and Cliff Halickman will be trying to avoid the sophomore jinx. Ward showed himself to carry a big stick on the baseball diamond, but will he also be a tool on the court?

The Moigners isn't just a team, it's a way of life, nay a cosmic metaphysical entity of its own. If you think you have what it takes, if you can dunk and chug, then you may be just the type of anti-social outcast we need. Watch the notice board for info about practice times.

Wayne Burrows

Attention All Students!

Both Faculty Council and the LSA would like to have your responses to the following questions. Drop your responses by the LSA office.

1. What subjects or individual courses have you found to be the BEST in the faculty?
2. What subjects have you found to be the WORST in the faculty?
3. Are there any HOLES IN THE CURRICULUM on which you wish to comment; if so, please do.

Thank-you
Fred Hoefert
Faculty Council
Representative
Student Member to Staff
Appointment Committee

Announcements

Thursday, 6 October 1983,
Student Union Ballroom
20:00 p.m. "Get together" for all staff and students, hosted by the Dean on behalf of the Faculty, in the Student Union Ballroom, University Centre, 3480 McTavish Street, at 8:00 p.m.

All Runners Attend!

If you aren't completely burned out from the Montreal Marathon, or if your sights are more modestly set than a gruelling 26 miles, come and join McGill's 10K Road Race, held as a major event to celebrate Open House 1983. The entry deadline has been extended to Thursday, September 29, 5:00 p.m.

Pick up an entry form at 105 Burnside Hall (the Open House Office) and join us at 11:30 a.m. Saturday, Oct. 1.

Definition of the Week

Fornication:

Sexual intercourse between consenting unmarried adults in private. See Heffner, 40 University of Colorado Law Review 200 (1968). It is proscribed by most states though frequently more honoured in the breach. The classic distinction between fornication and ADULTERY was enunciated by a law professor, who said that he tried them both and could not find any difference.

Quid Novi

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Editorial

A New Dean

In a time of generally depressing developments in higher education, the McGill Senate Review Committee recommendations are rather startling good news. The reports heralds a bright future for the Law School, creating previously unimaginable possibilities for a vibrant intellectual community.

The Committee's report is a critical appraisal of the strengths and weaknesses of the Faculty. It concludes that McGill's Faculty of Law is a good faculty that can become a great one. Two themes recur throughout the analysis: an urgent need for more resources, and the necessity of internal faculty reform.

There is a great danger that the Faculty will seize on the promise of the former, and ignore the criticisms of the latter. The report is somewhat subtle in discussing the School's internal problems, and politically refrains from recommending specific changes. Nonetheless, it clearly identifies the most serious source of internal fractiousness: the heavy dominance in Faculty governance by an unrepresentative group of Faculty members.

Behind this top-heavy power structure and a façade of collegiality is a reality at which the report only hints: a Faculty divided by deep-rooted, opposing interests.

Against this background, the selection of a new Dean is of enormous importance to the students of the Faculty. The Dean alone has the power to alter the rigid structure of authority that permits attitudes and teaching methods that were acceptable, perhaps appropriate, in the 1950's.

As society evolves, so do its legal institutions. Law schools can and must develop novel approaches to educating lawyers capable of functioning in a dynamic legal environment. Tenure and seniority must not be permitted to impede the adoption of new and more stimulating methods of legal education.

More money, more professors, more space are necessary, by no means sufficient conditions, for creating a great law school at McGill. Primary attention must go to rebuilding academic resources -- research and teaching equally -- and generally improving the intellectual atmosphere.

In this respect, the Faculty seems at present to be almost static. A new Dean must not see his job primarily as one of balancing or mediating the conflicting interests in the Faculty, however formidable a task that, in itself, may be. The new Dean must be a strong leader in academic matters, a person of intellect, force of personality, and no small measure of political subtlety. The new Dean must be capable of, and committed to, ending the intellectual paralysis in the governance of the school so its great potential may be fulfilled.

Peter Dauphinee

Anyone Wanna Toke ?

Have you ever thought about the serious repercussions of taking drugs and getting caught? Or of having a policeman THINK you are taking/dealing drugs? Not that you actually do any of those things, of course. I mean, have you ever thought -- hypothetically -- about what could happen if those things happened? I mean, let's pretend you did. Then what?

First, the R.C.M.P. could writ-of-assistance you. That means that they can barge into your house any time they feel like it for no real reason and search you and whoever else is there and then tell the court later that they had really knocked on the door and asked politely if they could come in. And who is the court going to believe? A respectable officer of the law, or you, an obvious dope fiend? To the credit of the courts, they often will believe you.

They (the police that is) could also "mouth search" you. "Mouth searches" are a euphemism for choking you half to death in the name of the law. Usually the police say that they thought you were a heroin addict and that it is common for heroin addicts to hide smack in their mouths. Never mind that they only suspected that you had a couple of grams of coke. At any rate, when you are unconscious, they will see that all your mouth contains is a tongue that is turning blue. They will apologize, and leave. Later, they will tell the court that you were sitting in a bar with known addicts and they saw you drinking your beer fast. You were obviously trying to swallow

massive quantities of heroin -- why else would you be sitting in a pub and drinking beer quickly?

All of these situations sound somewhat far-fetched if not ridiculous. Nevertheless, they have all happened in one case or another, and the courts' reaction has been somewhat sympathetic to defendants of late. That is, however, only because we now have a Charter that tells the courts that judges are allowed to be nice to people who have been groundlessly searched and suffocated. Canadians have traditionally been somewhat hysterical about enforcing drug legislation, and in support of this questionable hypothesis, the following extract was unearthed. It describes the effects of marijuana on its users:

"Addicts to this drug, while under its influence, are immune to pain, and could be severely injured without having any realization of their condition. While in this condition they become raving maniacs and are liable to kill or indulge in any form of violence to other persons, using the most savage methods of cruelty without, as said before, any sense of moral responsibility."

(From The Black Candle (1922))

Anybody who wants to discuss this quotation can meet me behind the school at recess.

Pearl Eliadis

Cont'd from p.1

shot, another "nas died" and four more have disappeared. Garcia's murder came the month she was to give evidence to the UNHRC in Geneva about the use of chemical weapons such as napalm and white phosphorous by government troops against civilians. The following are her words about lawyers and human rights workers in Guatemala:

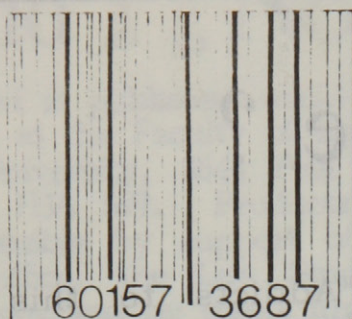
"For we who live in daily anguish for our lives, who every day feel in our own flesh the deaths of others, and who touch the wounds, the torture-marks of the dead; for we who photograph the victims, who hear the testimonies and anonymous screams of nameless families, nameless victims, such is what surrounds us. Such is what we live every day, reflected in our eyes, in-

vading our nostrils, impregnating our hands. And it is what gives us the strength to continue.

We are not deterred by accusations of subversion or of treachery to the nation, nor by the imprisonment and harassment we suffer for defending political prisoners. We will keep on fighting with voice and pen inside and outside the country. We are proud and we are determined.

Source: Index on Censorship

The Censorwatch executive will be meeting on Wednesday Sept. 28 at 1 p.m. in 203. Anyone interested may attend.



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